

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

UNITED STATES OF AMERICA	* CRIMINAL NO. 5:15-cr-00223
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	* 18 U.S.C. § 2241(c)
	* Aggravated Sexual Abuse of a Minor
	*
VERSUS	* 18 U.S.C. § 2242(1)
	* Sexual Abuse
	*
SHAWN D. DRIGGERS	* DISTRICT JUDGE FOOTE
	* MAGISTRATE JUDGE HORNSBY

GOVERNMENT'S LIST OF FORESEEABLE ISSUES
Trial Date: September 19, 2016

NOW INTO COURT, comes the United States of America, represented by the United States Attorney and by the undersigned Assistant United States Attorney, which respectfully provides this list of foreseeable issues:

1.

The Government has informed the Defendant that the Government is considering presenting a Superseding Indictment to the Grand Jury which would remove Count 2 from the Indictment but add at least one other count. If a Superseding Indictment is returned this month, the Defendant has informed the Government that he will not waive the 30 days he is allowed after his arraignment on a Superseding Indictment for his trial to begin [18 U.S.C. § 3161(c)(2)].

This would upset the present trial setting of September 19, 2016.

2.

The Defendant filed a motion to suppress his statements. [Doc. 25]. A hearing on the motion was held before Magistrate Judge Hornsby who made a Report and Recommendation that

the motion be denied. [Doc. 57]. The Government has responded to the Report and Recommendation. [Doc. 58]. The Court's ruling on the Magistrate Judge's Report and Recommendation concerning the admissibility of the Defendant's statements is pending.

3.

Defendant's Motion in Limine [Doc. 26] seeking exclusion of evidence or testimony at trial is also pending. The Government has filed a response to this motion [Doc. 38] and a Notice of Disclosure of Dr. Simoneaux, report [Doc. 45]. Additionally, the Government has filed a formal Notice of Intent to present the expert testimony of Dr. Simoneaux with sealed copies of his report and Curriculum Vitae. [Doc. 59].

The Defendant has also moved for the exclusion of various photographs of the victim which have been provided to him by the Government.

4.

Defendant's Motion for In Camera Inspection [Doc. 28] is moot. The Government has provided the Defendant the items he requested.

5.

The Defendant has agreed to (but not yet signed) a Joint Stipulation concerning the fact that Barksdale Air Force Base was and is in the special jurisdiction of the United States of America. A copy of the executed Joint Stipulation will be provided to the Court prior to trial and the original will be introduced at trial after the opening statements. There are no other stipulations at this time.

6

The presentation of the Government's case-in-chief will last approximately three days. The Government believes the trial itself could take four days to complete.

7.

Proposed Voir Dire Questions by the Government has been filed in a separate filing. [Doc. 61]. Due to the nature of the charged offenses it may take longer than usual to seat the jury.

8.

Proposed Jury Instructions by the Government in addition to the usual charges the Court gives in this type of criminal case have been filed in a separate filing. [Doc. 62]. Additional jury instructions may be necessary depending on the evidence presented during the trial.

9.

Evidence that the Defendant began his unlawful sexual conduct and sexual abuse of the victim before the victim resided on Barksdale Air Force Base and before the “on or about dates” alleged in the Indictment will be presented at trial. This evidence is intrinsic to the present charged offenses pending against the Defendant and is permitted by Rule 413 of the Federal Rules of Evidence. If the Court were to consider this as Rule 404(b) evidence it is admissible. The Government now gives formal notice of its intent to introduce such evidence at trial.

10.

Rule 16 Discovery and non-Rule 16 Discovery, including reports and agent’s notes, copies of video and audio recordings, and some Jencks Act material, has previously been provided to the Defendant in discovery and during the motion to suppress hearing. Additional Jencks Act material will be provided to the Defendant as required by law. The Government will provide a transcript of any witness who testified before the Grand Jury and other Jencks Act material (18 U.S.C. §3500) to the Defendant the Friday before the start of trial.

11.

The Government intends to call the victim to testify at this trial. The Government moves for a pre-trial ruling and order that the Defendant will conform with Rule 412 of the Rules of Evidence and that he is prohibited from questioning the victim or offering proof that the victim engaged in other sexual behavior and questioning the victim or offer proof of the victim's sexual predisposition.

12.

The Government intends to call the Defendant's wife and his sister to testify at this trial. Issues associated with these two witnesses should be addressed at the Pre-Trial Conference including Rule 412 of the Rules of Evidence.

WHEREFORE, the Government prays that this Court find the Government's Foreseeable Issues adequate.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on August 11, 2016, a copy of the foregoing was filed electronically with the Clerk of Court using the CM/ECF system. Notice of this filing will be sent to counsel for the Defendant by operation of the Court's electronic filing system.

/s/ Robert W. Gillespie, Jr.
Assistant U.S. Attorney